

No. PD-0715-17
TO THE COURT OF CRIMINAL APPEALS

JOSEPH SMITH
APPELLANT

FILED
COURT OF CRIMINAL APPEALS
4/5/2018
DEANA WILLIAMSON, CLERK

From the Fourteenth Court of Appeals, No. 14-15-00502-
CR, Affirming Cause No. 1336966, from the 228th District
Court, Harris County, Texas.

V.

THE STATE OF TEXAS
APPELLEE

AMENDED
Appellant's FINAL Motion To Extend Time
To File Brief on the Merits
For 11 Days Due to Unusual Circumstances

TO THE HONORABLE JUDGES OF THE COURT OF CRIMINAL APPEALS:

COMES NOW, JOSEPH SMITH, and files this his Amended Motion to Extend Time to File Brief on the Merits, and in support thereof, would respectfully show the Court the following:

I.

Counsel humbly apologizes for the befuddlement of her original motion for extension that was submitted on April 1, 2018 and which has not yet been ruled upon by this Court. In that motion, counsel requested an extension until April 5, 2018.

This amendment is necessary because counsel's recovery from the illness described in the original motion took longer than anticipated. At the time of filing on Sunday, counsel believed her ability to work would resume on Monday. However, nausea and fever continued through Monday, excessive fatigue afflicted counsel on Tuesday,

and counsel did not fully recover until Wednesday, April 4, 2018. Counsel is required to work inside the jail at bail hearings from 2-10pm, April 4 – April 6.

Relatively little work is left to be done on the brief to this Court. Counsel should have no problem finishing it over the weekend. Accordingly, counsel respectfully amends her request to extend permission to file until Monday April 9, 2018.

II.

Appellant's brief was first due on March 14, 2018. Counsel filed one previous motion for extension, requesting an additional 30 days. That motion was granted, but only in part, extending the deadline to March 29, 2018.

III.

Pursuant to the facts described in her original motion, counsel requests this extension due to the following events that have occurred since the first request for extension on March 13:

- Counsel was unavoidably out-of-town on family business that had been planned months ago during the periods of March 13—16 and March 26—29. Counsel apologizes for not notifying the Court of these dates when requesting the original extension since it would have provided a relevant factual basis as to why the thirty days was specifically requested.
- After being out-of-town through March 16, counsel returned to working scheduled bail hearings inside the jail over the weekend. Then counsel was set for a motion for new trial hearing in *State v. Suzanne Wexler* on Wednesday March 21, 2018 which involved extensive preparation.
- On Thursday March 22, 2018, counsel was able to speak on the phone with the appellant during a call that had to be pre-scheduled in advance with TDCJ to consult on issues raised in his pro se PDR. Counsel worked on the brief in this

case during that following weekend but was unable to complete it.

- Then, after being out-of-state from Monday the 26th through Thursday the 29th, counsel returned expecting to work through Easter weekend but instead was afflicted with a stomach virus. Counsel had to call-in an emergency substitute to cover her bail hearing shift on Saturday March 31st due to nausea and fever.

This unusual convergence of travel, trial, and illness has made it impossible to finish the briefing in this case despite counsel's best efforts.

IV.

Appellant's attorney requests this extension which is necessary so that the brief can be thoroughly written and timely filed. This motion is not made for the purpose of delay.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Appellant prays that this Honorable Court grants this requested extension of time to file the appellant's brief on the merits in the above cause and extend the time for filing for 11 days, to April 9, 2018.

Respectfully submitted,

ALEXANDER BUNIN
Chief Public Defender
Harris County, Texas

/s/Sarah V. Wood
SARAH V. WOOD
Assistant Public Defender
Harris County, Texas
Texas Bar Number 24048898
1301 Franklin, Suite 100
Houston Texas 77002
713.368.0016 (phone)
713.368.9278 (fax)
Sarah.Wood@pdo.hctx.net

Attorney for Appellant

CERTIFICATE OF SERVICE

By my signature below, I hereby certify that a true and correct copy of the above and foregoing Appellant's Motion to Extend Time to File Brief on the Merits has been served on the District Attorney of Harris County, Texas, and the State Prosecuting Attorney by electronic delivery through the efile system.

/s/Sarah V. Wood
Sarah V. Wood